REMARKS

Justification for the amendment is a follows. Claim 17 has been amended to correct claim dependence from the composition of matter of claim 13 instead of the method claim of claim 15. No new matter is added by this amendment, and entry of the amendment is respectively requested.

In the Restriction Requirement, the Examiner requested Applicants to elect one of the following inventions:

Group I (claims 1-6) drawn to a nucleic acid sequence of SEQ ID NO:2, or a nucleic acid sequence encoding SEQ ID NO:1, fragments, and a variant of SEQ ID NO:10, a vector, a host cell, and a method of making a protein.

Group II (claims 7 and 9) drawn to a method for detecting expression of a nucleic acid.

Group III (claim 8) drawn to a method for detecting expression of a nucleic acid using amplification.

Group IV (claim 10) drawn to a method for detecting prostate hyperplasia or prostate cancer.

Group V (claims 11-12) drawn to a method for screening compounds that bind specifically to a nucleic cacid encoding SEQ ID NO:1.

Group VI (claims 13-14) drawn to a protein of SEQ ID NO:1, or fragments thereof.

Group VII (claims 15-16) drawn to a method for screening compounds that specifically bind SEQ ID NO:1.

Group VIII (claim 18) drawn to an antibody.

Group IX (claims 19-20) drawn to a method for detecting prostate hyperplasia or prostate cancer using an antibody.

In addition, the Examiner's required a further election of species relative to the above Groups as follows:

Upon election of Group I, the election of the full length sequence of SEQ ID NO:1, or fragments, or a variant thereof.

Upon election of fragments of SEQ ID NO:1, election of a single species of SEQ ID NO:s3-9.

Upon election of any of Groups IV, IX, further election of the species of prostate hyperplasia or prostate cancer.

Upon election of Group V, further election of any of the molecules recited in claim 12.

Upon election of Group VII, further election of any of the molecules recited in claim 16.

Applicants hereby elect, with traverse, to prosecute Group I, which includes and is drawn to claims 1-6. Applicants further elect the species of polynucleotides encoding SEQ ID NO:1, which includes SEQ ID NO:2, again with traverse. Applicants object to the inappropriate and excessive restriction of claims.

SEQ ID NOs:3-9 and SEQ ID NO:10 are described in the specification as component sequences of SEQ ID NO:2 and a variant of SEQ ID NO:2 having 85% sequence identity to SEQ ID NO:2, respectively. Clearly these sequences would be found in any search for sequences related to SEQ ID NO:2 or other sequences encoding SEQ ID NO:1. The Examiner is reminded that proper restriction requires the following two conditions be met according to MPEP 803:

Restriction-When Proper:

> There are two criteria for a proper requirement for restriction between patentably distinct inventions:
>
> (A) The inventions must be independent (see MPEP Section 802.01 Section 806.04, Section 808.01) or distinct as claimed (see MPEP Section 806.05 - Section 806.05(i)); and
>
> (B) There must be a serious burden on the examiner if restriction is required (see MPEP Section 803.02 Section 806.04(a) - Section 806.04(i), Section 808.01(a), and Section 808.02). (Emphasis added).

While the first element (A) of this requirement may be fulfilled in the present restriction, the second clearly has not. The Examiner has not presented any evidence that the examination of SEQ ID NOs:2-10 would pose a serious burden for the reasons noted above. In addition, the restriction of claims 7-12, reciting methods of use of the polynucleotides of Group I, into separate groups is also inappropriate because, as noted by the Examiner, all of Groups II-V are classified the same (e.g., class 435, and specifically subclass 6) and would involve the same search. Since these methods also depend from and are of the same scope as the polynucleotides of Group I, Applicants further submit that they could be examined together with the composition of matter claims from which they depend, again without undue burden. Finally, the Examiner's request for election of a single disease or molecule or compound in Groups IV, V, VII, and IX misrepresents the concept of election of species. Applicants submit that the patentable distinctiveness of either the disease conditions or the molecules or compounds are not an issue for examination purposes of the claims at issue as the claims are to a method of use of the compositions of Groups I and not to the species themselves. Applicants therefore request reconsideration of the Restriction Requirement and examination of claims 1-12 in Groups I-V with respect to all recited species.

In the event that the Examiner maintains the Restriction Requirement, the Examiner is reminded that claims 7-12 of Groups II-V are methods of use of the compositions of Group I that depend from and are of the same scope as the claims of Group I, and are subject to rejoinder on allowance of the claims of Group I in accordance with *Ochiai and Brouwer* (see Commissioner's Notice in the Official Gazette of March 26, 1996).

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. 09-0108.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claim 17 has been amended as follows:

17. (Once Amended) A method of using a protein to prepare and purify antibodies comprising:

a) immunizing a animal with the protein of claim 13[15] under conditions to elicit an antibody response;

b) isolating animal antibodies;

c) attaching the protein to a substrate;

d) contacting the substrate with isolated antibodies under conditions to allow specific binding to the protein;

e) dissociating the antibodies from the protein, thereby obtaining purified antibodies.